affumed a power contrary to the petition of contrary to this first and most essential principle constitution, es that the lubject shall not be contribute to any tax; taliage, aid, or like charge, not fet by common content in parent"-Ail levies of money from the subject, by loan, or benevolence, are allo cautioully guard. of by the petition of right. The very putting ne a tax on the people, though not levied, has clared illegal, even a polantary imposition of ndize granted by the merchants, without the ation of parliament; gave umbrage to the con. was centured and condemned. though it were not fet on by affent of parent, yet it was not fer on bythe king's abfels r, but was granted to him by the meritan closs, who were to be charged with it. Su'th ance was the violaties of the right of the people ting it en without their affent i partiament, no lamage, that grew by it, for that did only total terebanti, who could not just y complain theres, ofe it was their ours all and grant Pelylin page 368, 369.—A tax may be defined fettled by some publick charge, upon land, or goods. By the English constitution the or goods. By the English condition the and in this province in the general affembly elentation has long been held to be effential to wer, and is confidered as its origin; upon this e the house of commons, who represent the ody of the people, claim the exclusive right of money bills, and will not fuffer the lords to them. The regulation of officers fees in Ma. has been generally made by the affemblies thority of the governor to fettle the fees of off.

s twice only, as we know of, interposed, but n, without meeting with opposition from the s, and creating a general discontent among ous, and unconfitutional. The fees of officer, imposed by act of assembly, or settled by proon, must be considered as a publick charge on the lands, perions, or goods of every inha-holding lands, or pollelled of property with That they have been looked upon a the officers themselves, is evident, from their lists of their rispective sees with the deputie is province; to the congress at New-York, who hereby be enabled to make known to his maid to the parliament, the great expence of sup. our civil effablishment. The author of the erfatility of his temper, fuch his contempt of icy, that he changes his opinions, and his es, with as little ceremony as he would charge

Speaking of the fundry charges on tobacco e planter (fays'he) pays a tax, at least, equal at is paid by any tarmer of Great-Britain posof the same degree of property, and moreover lanter must contribute to the support of the sive internal government of the colony, in which he s." Now, the support of civil efficers, unably constitutes a part of that expence—he ers to the appendix, where we meet with the g note.

e attentive reader will observe, that the netteds of a hogshead of tobacco at an average are and the taxes 3 £. together 7 £.—Quære—how per cent does the tax amount to which takes the two wretched tobacco colonies 3 £. out of 7 £.—and how deployable must their circums-appear when their valt debt to the mother try and the annual burthen of their civil establisher and added to the estimate.

Hed with the same idea were the conferred of it house in the year 1771. In their mellage is of November they affert— Publick office leubtless erected for the benefit of the community for the fame purpose are emoluments given port them. All taxes whatever are supposed aposed, and levied for the benefit of the com-

If then fees are taxes, or fach like thargu, it asked, how came parliaments to place such case in the judges, as to suffer them to exercise of which those assemblies have always been bly tenacious, and which is competent to the might answer this question by asking another; no many unconstitutional powers to be exerthe crown, and suffered by parliament? for the dispensing power—the answer is obvious; ed the wisdom of ages, and the accumulated patriotism; to bring the constitution to its point of perfection; a thorough reformation of be effected at once; upon the whole the fastely, and magnificent, yet a perfect symmetrately, and magnificent, yet a perfect symmetre pondence of parts is wanting; in some the pile appears to be described in in strength, in the rude and unpolished tasto of our Gothic and idiscoverable—

nodleque manent veftigie ruris.

not appear in what inflances, upon what occay, in what manner, the judges have allowed their officers—that is, have permitted them to, not before fettled by law, ulage, or the vergury. The power if conclusive on the fubicity exercised in the manner explained by Antilon, including and may be placed among those consist, which furnerly subsided in the more implants of our conflictution, and of which, some in even unto this day. How it came to be ed by parliament, may perhaps be accounted what after this manner. The liberties, which is defined under their Saxon kings, were from them by the Norman conqueror; that intirely changed the ancient confliction by intirely changed the ancient confliction by uage and new manners. The contoils, which e after crifted between the Plantageners, and as were livingles between modarchy, and a were livingles between modarchy, and a west between liberty, and prerogatives the

common people remained in a ftate of the most abiect flaveryja prey to both partie, imore oppressed by a number of petty tyranis, than they probably would have been by the runcontrouled power of one. wards the close of the long reign of Henry the 3 meet with the fift faint traces of a house of cominons that houle, which in process of time, became the moti powerful branch of our national allembijes, which gradu diy rescueil-the people from arithecatical, as well as from regal tyranny, to which we owe our prefent excellent confliction, derived its fift exiltence from an ufurper (D): Edward the full has meritted the appellation or the English Justinian by the great improvements of the law; and wife institutions made in his reign. He renewed, and confirmed the great charter, and passed the famous statute, de tallagio non concedendo, against the imposition of, and levying taxes without confest of parliament. Within the taxes without confest of parliament. Within the meming of which act, fays Coke, are new fees anliex. ed to old offices. Have any new fees been annexed to old offices fince that period by the fole authority of the judges? or have they increased the old and established fees ? if either, they have certainly acted against law. If Coke was of opinion, that the judges had a differetionary powerfts fettle the fees of old offices, it is malt furprizing he did not intimate as much in his comment our this statute, fo often quoted. He not only ought to have declared his opinion on that occasion, but also to have shewn the difference between a settlement of fees due to old and constitutional offices, and the annexing new fees to old offices. I believe it would have puzzled him, as much as it has Antilon, to thew the difference; in reality, there is none, they are but different names for the fame thing. Although the necessities of Edward, and the exigency of the times, forced him to submit to those limitations of presogative, he frequently broke through them; from whence we may conclude, that publick liberty was impertectly understood in that sude and unlettered age, and little regarded by a prince impatient of restraint, and fond of arbitrary power, though inclined to difpenfe equal juttice anlong his subjects. The fatal catailrophe of his fon, and the causes which occasioned it, are well known. In those times of discord and distraction, the greatest enormities were committed by the very men, who under a pretence of reforming ab-

equally unfortunite, and equally unfit for improving the coefficient, was the reign of Richard the 2d. Hume teaches us what idea we ought to form of the Engl.sh government under Edward the 3d—" Yet, on the whole it appears that the government at best was only a barbarous monarchy, not regulated by any fixed maxims, nor bounded by any certain undiffured rights, which were in practice regularly. observed. The king conducted himself by one set of principles, the barons by another, the commons by a third, the clergy by a fourth; all these systems of government were contrary and incompatible; are each of them prevailed according as incidents were favourable to it."

This short historical deduction may seem foreign to my subject, but it really is not.

The frequent and bare faced violations of laws favourable to the people, the pardoning offences of the deepest dye, committed by men of the first distinction, or the inability to punish the offenders, the corruption and venality of the judges, all tend to discover that practices as subversive of liberty, as a discretionary power in, the judges to impole fees, went unnoticed, or remained unred resided.

From the deposition of Richard the 2d to the battle of Bosworth, the English were continually involved inwars, foreign, or domestick. Silent inter arma

We may presume, during that period, the courts of justice were but little frequented, and the bufinels transacted in them inconsiderable ; Irom whence we may infer, that the rules of practice, and orders establifted by the judges in their courts being flightly known to the nation 'st large, escaped 'the notice of 'parliament, in a time of general poverty, and confusion. Frequent insurrections disturbed the peace of Henry the 7th. The first parliament of his reign was chiefly composed of his creatures, devoted to the house of ancaster, and obsequious to their sovereign's will. The ad parliament was fo little inclined to inquire into abutes of the courts of law, or into any other grievances, that the commons took no notice of an arbitrary taxation, which the king a little before their meet-ing, had imposed on his subjects. His whole reign was one continued scene of rapine and oppression on his part, and of fervile submission on that of the parliament: "In vain- (fays Hume) did the people look for protection from the parliament; that affembly was so overawed; that at this very time, during the greatest, rage of Henry's oppression, the commons st choic Dudley their speaker, the very man, who was the class instrument of his oppressions. Henry the 8th governed with absolute sway; parliaments in that prince's time, were more disposed to establish tyranny than to check the exercise of unconftitu. tional power (E). During the reigns of Edward the 6th, Mary and Elizabeth, these assemblies were builty engaged in modelling the national religion to the count itandard their obsequiousness in conformaing to the religion of the prince upon the throne, at a time, when the nation was most under religious influence, leaves us no room to expect a les compliant teniper in matters of more indifference.

In truth, under the Tudors, parliaments generally acted more like the infirmments of power, than the suaddahanceliberty

guardians of liberty,

The wife administration of E izabeth made her people happy; commerce began to flourish, a filirit of industry, and enterprize seized the nation; it grew.

(D) Simon Monifort earl of Leicester. Vide ist volume parliamentary bistory.

(E) As all avai passed in bis reign to place preclamations the sorce of laws.

wealthy, and law, the ufual concomitant of wealth,

In the 40th year of her reign a prefentment upon oath of as perions for the better reformation of jundiy exactions and abuses supposed to be committed. by the officers, clerks, and ministers in the high court of chancery was forwed to the committee? (appointed by the house of commons in 1739 to inquire into the abusea of the cours of law and equity) by which prefeatment it plainly appeared, who wise the officers of the cours at that time and what were their legal fees.". It appears from the lame report, that the officers of the court of thincery had exceed ingly increaled; fince the 40th of Elizabeth to thattime, by natents and grants, and in confequence, I suppose of the increased bufines, of the court. It likewife appears from the report afurefaid, that commissions had frequently illied in former times to inquire into the behaviour of the officers in the courts ofultice, with power to carrect abufes. The enrolment of two fuch commissions in the reign of James the 111, and four in the reign of Charles the iff, were producted to the committee, but they certify, that no luch commission had illued if ice the restormation.

During the reign of Charles the ad, parliaments were fulloufly employed in composing the disorders. configuent on the civil wars, healing the bierding wounds of the nation, and providing remedies against the fresh dangers, with which the bigotry and arbitrary. temper of the king's brother threatened the constitution. Since the revolution parliaments have relaxed much of their antient severity, and discipline. Gratitude to their great deliverer, and a thurough confidence in the patriotic princes of the illustricus houte of Brunswick have banished from the majority of those assemblies, all fears and jealo fies of an uncountitutional influence in the crown. P rfi nonious grants of publick money have grown into ditule; a liberality bordering upon profuseness has taken place of a rigid and auttere œconomy; complacence and compliment have succeeded to distrust, and to parliamentary inquiries, into the conduct, and to impeachments of ruling ministers. While parliaments continue to re, ofe this unbounded confidence in his Majefty's servants, we must not expect to feethern very solicitous to lessen the prefits of officers appointed by the crown. Political writers in England, have complained bitterly of the vait increase of officers, placemen, and persioners, and to that increase have principally ascribed an irrefiftable i fluence in the crown over those national councils. Will any impartial man pretend to fay that thefe complaints are altogether groundlef? exaggerated they may be. Let us, my countrymen, prefit by thezerrors and vices of the mother country; let us shun the rock, on which there is reason to fear, her constitution will be plit.

The liberty of Englishmen, says an admired writer, can never be destroyed but by a corrupt parliament, and a parliament will never be corrupt; if government be not supplied with the means of corrupting; among these various means, we may justly rank a number of lucrative places in the disposal of the crown.

(F) A member of the house of commons speaking on this very subject, before the house, expessed himfelf in the following manner. " But the cloan have " ing by fome measts or other got into its p. if fion " the arbitrary disposal of almost all offices and places, " ministers soon found that the mo e valuable those offices and places were, the more their power would he extended; therefore, they refolved to make them lucrative as well as honourable, and from that time they have been by degrees increasing not only the number of offices and places but also the profits and er perquifites of each. Not only large falaries have been annexed to every place or office under government, but many of the officers have been allawed to oppress the subject by the sale of places under them, and by exacting extravagant and unreasonable feer, which have been fo long fuffered, that they are now looked upon as the legal perquifites of the office, nay, in many offices they feem to have got a customary right to defraud the publick, and we know how careful some of our late ministers have been to pre-" went or defeat any parliamentary inquiry into the conduct " and management of any office." I am inclined to think that some of our former assemblies foresaw the great power, which the offices estab ished in this province for the furtherance of justice, and administration of government, would fooner or later throw into the hands of the persons invested with those offices; a little forefight might have discovered, that their incomeswould increase amazingly with the rapid increase ofpopulation, trade, and law. Aware of the danger. they wifely determined to provide a timely remedy, and fell upon the true, and only expedient, by paffing temporary laws for the limitation of officers fees, not by delegating-that most important trust to judges remoreable at pleasure, tiable to be swayed, perhaps,difposed, to overlook the evil practices of their officers, and even to countenance "the new invented and co-" lourable charges of combined interest and ingenuity." have mentioned the great abufes, which had infected the courts of julice in England, the methods there pursued to correct them; and to prevent the exaction of new and illegal fees, and the long interruption of thole methods, or inquiries.

The grievance had become to intolerable that the commons were at last forced to take cognizance of, it themselves; from the necessity of their interposition, either a neglect in the y dges to reform abuses, or a want, of power is deducible; and hence this other inference may be drawn, that a law, I miting the sees of officers; is the helt method of preventing their encroachments and illegal practices. Natwithstanding the late law many abuse had been committed by officers in the manner of charging their sees under that law, These abuse; if the proclamation should be ensported, will continue, and go on increasing till they.

(F) Edward Southwell, Efg; wide departured the house of commons for the year 1744, anno 18 George 2d.

become insupportable to a free people, or the people be enflaved by a degenerate and abject submission to that arbitrary exertion of prerogative.

The necessities of the English kines, which confirmined them to have frequenties which contary aids if it gave rile to their gradually secured, the liberty of the tubject.

In this color, government is alm it independent of the people. It has nothing to alk but a provision for its officers, if it can lettle their lees without the material of the legislature, administration will distribute to owe even this obligation to the people. The delegates will from lote their importance, givernment will every day gain some accession of the again; we have no intermediate thate to check its prigress, the upper hours, the full own of an aristocracy, being camposed of officers dependent on the proprietary and removes be at pleasure, will, it is to be seared, be subservient to his pleasure and command.

I shalf now proceed to examine Antilon's answers to my former arguments against the power of regulating fees by proclamation.

The whole force of his fifft answer, depends on the revival of the authority, which he convenue existed before the bracklon of the temporary laws if that authority is sliegal, ir did not exist, and come quently could not revive. The regions arready alliqued prove the illegative.

ad Antwer. " Pailiament may have pecugliar moto tives; &c. & ... Pa liament, it jogirue, may hive many motives for letting fees in vivious lattances. To preciade a differe ionary nower in the judges, in-comparibe with the spirit of our constitution, and to obvide the moon e sience, sefusting from uncertainty, and endlets litigation, thould induce parliament to fettle the fees in every untance. The notion of the judges and the parliament having a co-ordinate p. w. r. which might clash, was never en e tained ; fom the ab urdity of two co-equal powers fublift ng in lie jame stare, a sub admation of the judges to pa nament was inferred; but if mercenary officers, or an aithur intion of fees, may leave the power of the judges uncontrouled by parliament, and at liberty to act, then co I. infilt, that the au hority of paril ment to regulate rees may be rende ed altogether ufeless an i nugatory.

3d Answer. Inight in my tun support, & . &c.

Thus may the multinstrent, or fligate, and consemptible min ster, that ever degrated a nation, or his prince, suppose every opposition to his measures flows from similar motivs. I argue not upon supposition but from sacts. The acregulation of fees we used until the service, which cold he former on y xof.

Fo place all the fu ject on equal footing was doing equal justice to all; it was bringing back the law to its true spirit and original int int. A sufes had crept into practice, owing either to defin, or to a misconception of the act, or to a doubtfulnels of expression; mong others, fees were often charged or fervices not done a the de egue, at e opted to ceform thele abuies, and to leffen the rates where excessive; in this laudable attempt they were diffipointed by the obstinacy and feifishness of men, who ade themselves judges of their own merits, and own rewards. I ag ee with Antikon ; " That our conft tution may be much im raved by " alreing the condition of our ju ges, by making "thein independent, and allotting them a liberal in-" come"-Bot I fancy the de ega es wou'd dif gree with him about the means. They perhaps would propose to lessen the exorbitant income of an inferi r officer, who does little to deferve it, who grows more info ent as he grows more wealthy, and by a reduction; of free annexed to his, and to other offices not attended with much tiquile, they would probab y endeavour to make fuch lavings, as might enable them to allow the judges a genteel falary without loading the people with any confi terable additional charge,

Another very great improvement might be made in our confliction, by excluding all future fecretalies, commissaries general, and judges of the land office from the upper-house; till that event takes place, we may despair of seeing any useful laws pass, without some dragreeable tack to them, should they class with their particular interests. Those efficers have long their particular interests. Those efficers have long thanks, a law of the most salutury and exensive confectioned to the commission, and which has hithesto been purchased by a particular attention to their interests, and a deterence to their demands, as impossible as unaccountable in the representatives of a tree people.

4th Anfaer. A great part of this answer has been already obviated. It has been noticed, that the exactions so much taked of, and so much deaded by our merciful minister, are more buylears. Freemen are not to be terrified with visionary learns over solicitude to protect us from imaginary dangers, and a strong inclination discovered at the same time too pick our pickers, look a little like, mockery. Free bing taxes; to impose them on the subject by proclamation, was as ilegal a to levy ship miney by proclamation. The design of the two measures was nearly the same.

Chails wanted to raise money without a parliament, and our upfinit minister win ed to provide for bindist and his brother officers without an action allemble as the delegates with out an action allemble as the delegates with out provide fit him, and it may in a manner him ble to their lifes. Warnot the legality of the him money all sheet the enquisable in the ordinary indicatories? Dut it in the conjugable in the lemm facts in? The fanction of eight inters our of twelve? You still cerain, Mr. Aprilas, all the low evalue cuit. Ing. of a periffreger.

" Q o semel est imbuta recens, se wibit odorem." T. sta diu. "its in the contract of the contr

sti An'wer When because not africated by law, the ver life of a firly mult afectiain them, we en the afect and the accompany by flatute to include them in the college the necessity